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DEPARTMENT OF COMMERCE

International Trade Administration

(C-570-025, C-533-862, C-523-811)

Certain Polyethylene Terephthalate Resin from the People's Republic of China, India, and the Sultanate of Oman: Initiation of Countervailing Duty Investigations

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce

DATES: Effective (Insert date of publication in the *Federal Register*.)

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SUPPLEMENTARY INFORMATION

The Petitions

On March 10, 2015, the Department of Commerce (Department) received countervailing duty (CVD) petitions concerning imports of certain polyethylene terephthalate resin (PET resin) from the People's Republic of China (PRC), India, and the Sultanate of Oman (Oman) filed in proper form on behalf of DAK Americas, LLC; M&G Chemicals; and Nan Ya Plastic Corporation, America (collectively, Petitioners). The CVD petitions were accompanied by

antidumping duty (AD) petitions also concerning imports of PET resin from Canada, the PRC, India, and Oman.¹ Petitioners are domestic producers of PET resin.²

On March 13, 2015, the Department requested information and clarification for certain areas of the Petitions.³ Petitioners filed responses to these requests on March 17 and 19, 2015.⁴ Petitioners filed a revised scope on March 24, 2015.⁵

In accordance with section 702(b)(1) of the Tariff Act of 1930, as amended (the Act), Petitioners allege that the Government of the PRC (GOC), the Government of India (GOI), and the Government of the Sultanate of Oman (GSO) are providing countervailable subsidies (within the meaning of sections 701 and 771(5) of the Act) to imports of certain PET resin from the PRC, India and Oman, respectively, and that such imports are materially injuring, or threatening material injury to, an industry in the United States. Also, consistent with section 702(b)(1) of the Act, the Petitions are accompanied by information reasonably available to Petitioners supporting their allegations.

¹ See “Petitions for the Imposition of Antidumping Duties on Imports of Certain Polyethylene Terephthalate Resin from Canada, The People’s Republic of China, India, and the Sultanate of Oman and Countervailing Duties on Imports from The People’s Republic of China, India, and the Sultanate of Oman,” dated March 10, 2015 (Petitions).

² See Volume I of the Petitions, at I-2 and Exhibit I-2.

³ See Letter from the Department to Petitioners entitled “Petition for the Imposition of Countervailing Duties on Imports of Certain Polyethylene Terephthalate Resin from the People’s Republic of China (PRC): Supplemental Questions,” dated March 13, 2015 (PRC Deficiency Questionnaire); Letter from the Department to Petitioners entitled “Petition for the Imposition of Countervailing Duties on Imports of Certain Polyethylene Terephthalate Resin from India: Supplemental Questions,” dated March 13, 2015 (India Deficiency Questionnaire); Letter from the Department to Petitioners entitled “Petition for the Imposition of Countervailing Duties on Imports of Certain Polyethylene Terephthalate Resin from the Sultanate of Oman: Supplemental Questions,” dated March 13, 2015 (Oman Deficiency Questionnaire); Letter from the Department to Petitioners entitled “Petition for the Imposition of Countervailing Duties on Imports of Certain Polyethylene Terephthalate Resin from Canada, the People’s Republic of China, India, and the Sultanate of Oman: Supplemental Questions,” dated March 13, 2015 (General Issues Supplement).

⁴ See Letter from Petitioners entitled “Certain Polyethylene Terephthalate Resin From The People’s Republic Of China-Petitioners’ Response To Supplemental Questionnaire,” dated March 17, 2015 (PRC CVD Supplement); Letter from Petitioners entitled “Certain Polyethylene Terephthalate Resin From India-Petitioners’ Response To Supplemental Questionnaire,” dated March 17, 2015 (India CVD Supplement); Letter from Petitioners entitled “Certain Polyethylene Terephthalate Resin From the Sultanate of Oman-Petitioners’ Response To Supplemental Questionnaire,” dated March 17, 2015 (Oman CVD Supplement); and Letter from Petitioners entitled “Certain Polyethylene Terephthalate Resin From The People’s Republic Of China, India, and the Sultanate of Oman-Petitioner’s Response to Supplemental Questionnaire,” dated March 19, 2015 (General Issues Supplement).

⁵ See Scope Supplement to the Petitions, dated March 24, 2015 (Scope Supplement).

The Department finds that Petitioners filed the Petitions on behalf of the domestic industry because Petitioners are interested parties as defined in sections 771(9)(C) and (D) of the Act. The Department also finds that Petitioners demonstrated sufficient industry support with respect to the initiation of the CVD investigations that Petitioners are requesting.⁶

Period of Investigation

The period of investigation for the PRC, India and Oman is January 1, 2014, through December 31, 2014.⁷

Scope of the Investigations

The product covered by these investigations is PET resin from the PRC, India, and Oman. For a full description of the scope of these investigations, *see* the “Scope of the Investigations” in Appendix I of this notice.

Comments on Scope of the Investigations

During our review of the Petitions, the Department issued questions to, and received responses from, Petitioners pertaining to the proposed scope to ensure that the scope language in the Petitions would be an accurate reflection of the products for which the domestic industry is seeking relief.⁸

As discussed in the preamble to the Department’s regulations,⁹ we are setting aside a period for interested parties to raise issues regarding product coverage (scope). The period for scope comments is intended to provide the Department with ample opportunity to consider all comments and to consult with parties prior to the issuance of the preliminary determinations. If scope comments include factual information (*see* 19 CFR 351.102(b)(21)), all such factual

⁶ *See* the “Determination of Industry Support for the Petitions” section below.

⁷ 19 CFR 351.204(b)(2).

⁸ *See* General Issues Questionnaire; *see also* General Issues Supplement.

⁹ *See Antidumping Duties; Countervailing Duties; Final Rule*, 62 FR 27296, 27323 (May 19, 1997).

information should be limited to public information. All such comments must be filed by 5:00 p.m. Eastern Time (ET) on April 20, 2015, which is the first business day following 20 calendar days from the signature date of this notice. Any rebuttal comments, which may include factual information, must be filed by 5:00 p.m. ET on April 30, 2015, which is 10 calendar days after the initial comments deadline.¹⁰

The Department requests that any factual information the parties consider relevant to the scope of the investigations be submitted during this time period. However, if a party subsequently finds that additional factual information pertaining to the scope of the investigations may be relevant, the party may contact the Department and request permission to submit the additional information. All such comments must be filed on the records of the PRC, India, and Oman CVD investigations, as well as the concurrent Canada, PRC, India, and Oman AD investigations.

Filing Requirements

All submissions to the Department must be filed electronically using Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). An electronically-filed document must be received successfully in its entirety by the time and date it is due. Documents excepted from the electronic submission requirements must be filed manually (*i.e.*, in paper form) with Enforcement and Compliance's APO/Dockets Unit, Room 1870, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230, and stamped with the date and time of receipt by the applicable deadlines.

¹⁰ According to the Department practice, when a date falls on a weekend or a federal holiday, submissions become due the next business day; *see Notice of Clarification: Application of "Next Business Day" Rule for Administrative Determination Deadlines Pursuant to the Tariff Act of 1930, As Amended*, 70 FR 24533 (May 10, 2005).

Consultations

Pursuant to section 702(b)(4)(A)(i) of the Act, the Department notified representatives of the GOC, GOI, and GSO of the receipt of the Petitions. Also, in accordance with section 702(b)(4)(A)(ii) of the Act, the Department provided representatives of the GOC, GOI, and GSO the opportunity for consultations with respect to the Petitions.¹¹ Consultations were held with the GOC on March 24, 2015. Consultations were held with the GSO on March 27, 2015. All memoranda regarding these consultations are on file electronically *via* ACCESS.

Determination of Industry Support for the Petitions

Section 702(b)(1) of the Act requires that a petition be filed on behalf of the domestic industry. Section 702(c)(4)(A) of the Act provides that a petition meets this requirement if the domestic producers or workers who support the petition account for: (i) at least 25 percent of the total production of the domestic like product; and (ii) more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for, or opposition to, the petition. Moreover, section 702(c)(4)(D) of the Act provides that, if the petition does not establish support of domestic producers or workers accounting for more than 50 percent of the total production of the domestic like product, the Department shall: (i) poll the industry or rely on other information in order to determine if there is support for the petition, as required by subparagraph (A); or (ii) determine industry support using a statistically valid sampling method to poll the “industry.”

Section 771(4)(A) of the Act defines the “industry” as the producers as a whole of a domestic like product. Thus, to determine whether a petition has the requisite industry support, the statute directs the Department to look to producers and workers who produce the domestic like product. The International Trade Commission (ITC), which is responsible for determining

¹¹ See Letters of Invitation from the Department to the GOC, GOI, and GSO dated March 10, 2015.

whether “the domestic industry” has been injured, must also determine what constitutes a domestic like product in order to define the industry. While both the Department and the ITC must apply the same statutory definition regarding the domestic like product,¹² they do so for different purposes and pursuant to a separate and distinct authority. In addition, the Department’s determination is subject to limitations of time and information. Although this may result in different definitions of the like product, such differences do not render the decision of either agency contrary to law.¹³

Section 771(10) of the Act defines the domestic like product as “a product which is like, or in the absence of like, most similar in characteristics and uses with, the article subject to an investigation under this title.” Thus, the reference point from which the domestic like product analysis begins is “the article subject to an investigation” (*i.e.*, the class or kind of merchandise to be investigated, which normally will be the scope as defined in the Petitions).

With regard to the domestic like product, Petitioners do not offer a definition of the domestic like product distinct from the scope of the investigations. Based on our analysis of the information submitted on the record, we have determined that PET resin constitutes a single domestic like product and we have analyzed industry support in terms of that domestic like product.¹⁴

In determining whether Petitioners have standing under section 702(c)(4)(A) of the Act,

¹² See section 771(10) of the Act

¹³ See *USEC, Inc. v. United States*, 132 F. Supp. 2d 1, 8 (CIT 2001) (citing *Algoma Steel Corp., Ltd. v. United States*, 688 F. Supp. 639, 644 (CIT 1988), *aff’d* 865 F.2d 240 (Fed. Cir. 1989)).

¹⁴ For a discussion of the domestic like product analysis in this case, see Countervailing Duty Investigation Initiation Checklist: Certain Polyethylene Terephthalate Resin from the People’s Republic of China (PRC CVD Initiation Checklist), at Attachment II, Analysis of Industry Support for the Antidumping and Countervailing Duty Petitions Covering Certain Polyethylene Terephthalate Resin from Canada, the People’s Republic of China, India, and the Sultanate of Oman (Attachment II); Countervailing Duty Investigation Initiation Checklist: Certain Polyethylene Terephthalate Resin from India (India CVD Initiation Checklist), at Attachment II; and Countervailing Duty Investigation Initiation Checklist: Certain Polyethylene Terephthalate Resin from the Sultanate of Oman (Oman CVD Initiation Checklist), at Attachment II. These checklists are dated concurrently with this notice and are on file electronically via ACCESS. Access to documents filed via ACCESS is also available in the Central Records Unit, Room 7046 of the main Department of Commerce building.

we considered the industry support data contained in the Petitions with reference to the domestic like product as defined in the “Scope of the Investigations,” in Appendix I of this notice.

Petitioners provided their own production of the domestic like product in 2014.¹⁵ In addition, Petitioners estimated the total 2014 production of the domestic like product for the entire domestic industry.¹⁶ To establish industry support, Petitioners compared their own production to total production of the domestic like product for the entire domestic industry.¹⁷

Our review of the data provided in the Petitions, supplemental submission, and other information readily available to the Department indicates that Petitioners have established industry support.¹⁸ First, the Petitions established support from domestic producers (or workers) accounting for more than 50 percent of the total production of the domestic like product and, as such, the Department is not required to take further action in order to evaluate industry support (*e.g.*, polling).¹⁹ Second, the domestic producers (or workers) have met the statutory criteria for industry support under section 702(c)(4)(A)(i) of the Act because the domestic producers (or workers) who support the Petitions account for at least 25 percent of the total production of the domestic like product.²⁰ Finally, the domestic producers (or workers) have met the statutory criteria for industry support under section 702(c)(4)(A)(ii) of the Act because the domestic producers (or workers) who support the Petitions account for more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing

¹⁵ See Volume I of the Petitions, at Exhibit GEN-1.

¹⁶ *Id.*

¹⁷ *Id.* For further discussion, see PRC CVD Initiation Checklist, India CVD Initiation Checklist, and Oman CVD Initiation Checklist, at Attachment II.

¹⁸ See PRC CVD Initiation Checklist, India CVD Initiation Checklist, and Oman CVD Initiation Checklist, at Attachment II.

¹⁹ See section 732(c)(4)(D) of the Act; see also PRC CVD Initiation Checklist, India CVD Initiation Checklist, and Oman CVD Initiation Checklist, at Attachment II.

²⁰ See PRC CVD Initiation Checklist, India CVD Initiation Checklist, and Oman CVD Initiation Checklist, at Attachment II.

support for, or opposition to, the Petitions.²¹ Accordingly, the Department determines that the Petitions were filed on behalf of the domestic industry within the meaning of section 702(b)(1) of the Act.

The Department finds that Petitioners filed the Petitions on behalf of the domestic industry because they are interested parties as defined in section 771(9)(C) of the Act and they have demonstrated sufficient industry support with respect to the CVD investigations that they are requesting the Department initiate.²²

Injury Test

Because India, Oman, and the PRC are “Subsidies Agreement Countries” within the meaning of section 701(b) of the Act, section 701(a)(2) of the Act applies to these investigations. Accordingly, the ITC must determine whether imports of the subject merchandise from India, Oman, and the PRC materially injure, or threaten material injury to, a U.S. industry.

Allegations and Evidence of Material Injury and Causation

Petitioners allege that imports of the subject merchandise are benefitting from countervailable subsidies and that such imports are causing, or threaten to cause, material injury to the U.S. industry producing the domestic like product. Petitioners allege that subject imports exceed the negligibility threshold of three percent provided for under section 771(24)(A) of the Act.²³ In CVD petitions, section 771(24)(B) of the Act provides that imports of subject merchandise from least developed countries must exceed the negligibility threshold of four percent. Petitioners also demonstrate that subject imports from India, which has been designated as a least developed country under section 771(36)(B) of the Act, exceed the negligibility

²¹ *Id.*

²² *Id.*

²³ See Volume I of the Petitions, at 12-13 and Exhibit GEN-7; see also General Issues Supplement, Attachment 1, at 7.

threshold provided for under section 771(24)(B) of the Act.²⁴

Petitioners contend that the industry's injured condition is illustrated by reduced market share; underselling and price suppression or depression; lost sales and revenues; declining U.S. shipment and production trends and low capacity utilization rates; decline in production-related workers; and decline in financial performance.²⁵ We assessed the allegations and supporting evidence regarding material injury, threat of material injury, and causation, and we determined that these allegations are properly supported by adequate evidence and meet the statutory requirements for initiation.²⁶

Initiation of Countervailing Duty Investigations

Section 702(b)(1) of the Act requires the Department to initiate a CVD investigation whenever an interested party files a CVD petition on behalf of an industry that: (1) alleges the elements necessary for an imposition of a duty under section 701(a) of the Act; and (2) is accompanied by information reasonably available to Petitioners supporting the allegations.

Petitioners allege that producers/exporters of PET resin in the PRC, India, and Oman benefited from countervailable subsidies bestowed by the governments of these countries, respectively. The Department examined the Petitions and finds that they comply with the requirements of section 702(b)(1) of the Act. Therefore, in accordance with section 702(b)(1) of the Act, we are initiating CVD investigations to determine whether manufacturers, producers, or exporters of PET resin from the PRC, India, and Oman receive countervailable subsidies from the governments of these countries, respectively.

²⁴ *Id.*

²⁵ See Volume I of the Petitions, at 10, 12-21 and Exhibits GEN-4 and GEN-7 through GEN-11; see also General Issues Supplement, cover letter, at 2, Attachment 1, at 7, and Attachment 2, at Exhibit GEN-S9.

²⁶ See India CVD Initiation Checklist, Oman CVD Initiation Checklist, and PRC CVD Initiation Checklist at Attachment III, Analysis of Allegations and Evidence of Material Injury and Causation for the Antidumping and Countervailing Duty Petitions Covering Certain Polyethylene Terephthalate Resin from Canada, the People's Republic of China, India, and the Sultanate of Oman.

The PRC

Based on our review of the petition, we find that there is sufficient information to initiate a CVD investigation on 19 of the 21 alleged programs. For a full discussion of the basis for our decision to initiate or not initiate on each program, *see* the PRC CVD Initiation Checklist.

India

Based on our review of the petition, we find that there is sufficient information to initiate a CVD investigation on all of the 24 alleged programs. For a full discussion of the basis for our decision to initiate or not initiate on each program, *see* the India CVD Initiation Checklist.

Sultanate of Oman

Based on our review of the petition, we find that there is sufficient information to initiate a CVD investigation on all of the seven alleged programs. For a full discussion of the basis for our decision to initiate or not initiate on each program, *see* the Oman CVD Initiation Checklist.

A public version of the initiation checklist for each investigation is available on ACCESS and at <http://trade.gov/enforcement/news.asp>.

In accordance with section 703(b)(1) of the Act and 19 CFR 351.205(b)(1), unless postponed, we will make our preliminary determinations no later than 65 days after the date of this initiation.

Respondent Selection

Petitioners named 35 companies as producers/exporters of PET resin from the PRC, 13 companies as producers/exporters of PET resin from India, and one company as a producer/exporter of PET resin from Oman.²⁷ Regarding the PRC and India, following standard practice in CVD investigations, the Department will, where appropriate, select respondents based on U.S. Customs and Border Protection (CBP) data for U.S. imports of PET resin during the

²⁷ *See* Volume I of the Petitions, at Exhibit GEN-3.

periods of investigation under the following Harmonized Tariff Schedule of the United States (HTSUS) number: 3907.60.00.30. We intend to release CBP data under Administrative Protective Order (APO) to all parties with access to information protected by APO within five-business days of publication of this Federal Register notice. The Department invites comments regarding respondent selection within seven days of publication of this Federal Register notice.

Comments must be filed electronically using ACCESS. An electronically-filed document must be received successfully in its entirety by ACCESS, by 5 p.m. ET by the date noted above. We intend to make our decision regarding respondent selection within 20 days of publication of this notice. Interested parties must submit applications for disclosure under APO in accordance with 19 CFR 351.305(b). Instructions for filing such applications may be found on the Department's Web site at <http://enforcement.trade.gov/apo>.

Regarding Oman, although the Department normally relies on import data from CBP to select a limited number of producers/exporters for individual examination in CVD investigations, if appropriate, these Petitions name only one company as a producer/exporter of PET resin from Oman: Octal Petrochemical, LLC FZC.²⁸ Furthermore, we know of no other producers/exporters of subject merchandise from Oman. Accordingly, the Department intends to examine the one known producer/exporter of PET resin in this investigation with regard to Oman (*i.e.*, the company identified above). We invite interested parties to comment on this issue. Parties wishing to comment must do so within seven days of the publication of this notice in the *Federal Register*.

²⁸ *Id.*

Distribution of Copies of the Petitions

In accordance with section 702(b)(4)(A)(i) of the Act and 19 CFR 351.202(f), copies of the public version of the Petitions have been provided to the GOC, GOI, and GSO *via* ACCESS. To the extent practicable, we will attempt to provide a copy of the public version of the Petitions to each known exporter (as named in the Petitions), consistent with 19 CFR 351.203(c)(2).

ITC Notification

We notified the ITC of our initiation, as required by section 702(d) of the Act.

Preliminary Determinations by the ITC

The ITC will preliminarily determine, within 45 days after the date on which the Petitions were filed, whether there is a reasonable indication that imports of PET resin from the PRC, India, and/or Oman are materially injuring, or threatening material injury to, a U.S. industry.²⁹ A negative ITC determination for any country will result in the investigation being terminated with respect to that country;³⁰ otherwise, these investigations will proceed according to statutory and regulatory time limits.

Submission of Factual Information

Factual information is defined in 19 CFR 351.102(b)(21) as: (i) evidence submitted in response to questionnaires; (ii) evidence submitted in support of allegations; (iii) publicly available information to value factors under 19 CFR 351.408(c) or to measure the adequacy of remuneration under 19 CFR 351.511(a)(2); (iv) evidence placed on the record by the Department; and (v) evidence other than factual information described in (i)–(iv). The regulation requires any party, when submitting factual information, to specify under which subsection of 19 CFR 351.102(b)(21) the information is being submitted and, if the information is submitted to

²⁹ See section 703(a) of the Act.

³⁰ *Id.*

rebut, clarify, or correct factual information already on the record, to provide an explanation identifying the information already on the record that the factual information seeks to rebut, clarify, or correct. Time limits for the submission of factual information are addressed in 19 CFR 351.301, which provides specific time limits based on the type of factual information being submitted. Parties should review the regulations prior to submitting factual information in these investigations.

Extension of Time Limits Regulation

Parties may request an extension of time limits before the expiration of a time limit established under Part 351, or as otherwise specified by the Secretary. In general, an extension request will be considered untimely if it is filed after the expiration of the time limit established under Part 351 expires. For submissions that are due from multiple parties simultaneously, an extension request will be considered untimely if it is filed after 10:00 a.m. on the due date. Under certain circumstances, we may elect to specify a different time limit by which extension requests will be considered untimely for submissions which are due from multiple parties simultaneously. In such a case, we will inform parties in the letter or memorandum setting forth the deadline (including a specified time) by which extension requests must be filed to be considered timely. An extension request must be made in a separate, stand-alone submission; under limited circumstances we will grant untimely-filed requests for the extension of time limits. Review *Extension of Time Limits; Final Rule*, 78 FR 57790 (September 20, 2013), available at <http://www.gpo.gov/fdsys/pkg/FR-2013-09-20/html/2013-22853.htm>, prior to submitting factual information in this segment.

Certification Requirements

Any party submitting factual information in an AD or CVD proceeding must certify to the accuracy and completeness of that information.³¹ Parties are hereby reminded that revised certification requirements are in effect for company/government officials, as well as their representatives. Investigations initiated on the basis of petitions filed on or after August 16, 2013, and other segments of any AD or CVD proceedings initiated on or after August 16, 2013, should use the formats for the revised certifications provided at the end of the *Final Rule*.³² The Department intends to reject factual submissions if the submitting party does not comply with the applicable revised certification requirements.

Notification to Interested Parties

Interested parties must submit applications for disclosure under APO in accordance with 19 CFR 351.305. On January 22, 2008, the Department published *Antidumping and Countervailing Duty Proceedings: Documents Submission Procedures; APO Procedures*, 73 FR 3634 (January 22, 2008). Parties wishing to participate in these investigations should ensure that they meet the requirements of these procedures (*e.g.*, the filing of letters of appearance as discussed at 19 CFR 351.103(d)).

³¹ See section 782(b) of the Act.

³² See *Certification of Factual Information To Import Administration During Antidumping and Countervailing Duty Proceedings*, 78 FR 42678 (July 17, 2013) (*Final Rule*); see also frequently asked questions regarding the *Final Rule*, available at http://enforcement.trade.gov/tlei/notices/factual_info_final_rule_FAQ_07172013.pdf.

This notice is issued and published pursuant to sections 702 and 777(i) of the Act.

Paul Piquado
Assistant Secretary
for Enforcement and Compliance

March 30, 2015.
Date

Appendix I

Scope of the Investigations

The merchandise covered by these investigations is polyethylene terephthalate (PET) resin having an intrinsic viscosity of at least 0.70, but not more than 0.88, deciliters per gram. The scope includes blends of virgin PET resin and recycled PET resin containing predominantly virgin PET resin content, provided such blends meet the intrinsic viscosity requirements above. The scope includes all PET resin meeting the above specifications regardless of additives introduced in the manufacturing process.

Although the merchandise covered by these investigations is not defined by its end use, it is typically used in the production of plastic bottles, in packaging for beverage, food, and manufactured products, in containers for household and automotive products, and in industrial strapping, among other applications.

The merchandise subject to these investigations is properly classified under subheading 3907.60.00.30 of the Harmonized Tariff Schedule of the United States (HTSUS). Although the HTSUS subheading is provided for convenience and customs purposes, the written description of the merchandise under investigation is dispositive.

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